

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 HA-05 SY-05 SS-15 L-03 CA-01 SP-02
CIAE-00 INR-07 NSAE-00 EUR-12 /065 W
-----109144 102133Z /75
R 101725Z JAN 78
FM USINT HAVANA
TO SECSTATE WASHDC 903

C O N F I D E N T I A L HAVANA 0062

EO 11652: GDS
TAGS: ASEC
SUBJECT: ASYLUM AND WALK-IN PROCEDURES

REFERENCE: A) 77 HAVANA 0647; B) 77 STATE 285596; C) 77 HAVANA 0829

1. SWISS AMBASSADOR HAS RECEIVED FURTHER INSTRUCTIONS FROM BERN
ON SUBJECT OF ASYLUM WHICH HE SUMMARIZED FOR USINT CHIEF AS
FOLLOWS:

A. ANY RIGHTS OF ASYLUM IN THE USINT BUILDING OR STAFF RESIDENCES
FLOW FROM SWISS RIGHTS (NOT US RIGHTS) UNDER INTERNATIONAL LAW
SINCE SWITZERLAND IS THE PROTECTING POWER. UNDER SWISS PRACTICE,
ONLY THE AMBASSADOR PERSONALLY HAS THE AUTHORITY TO GRANT ASYLUM.
UNTIL HE MAKES HIS DECISION IN A GIVEN CASE (PRESUMABLY AFTER
CONSULTATION WITH BERN) THE PERSON SEEKING ASYLUM MAY REMAIN ON THE
PREMISES UNDER DIPLOMATIC PROTECTION IF HE INSISTS ON DOING SO.
(SWISS PRACTICE, LIKE OUR OWN, HOWEVER, IS ACTIVELY TO DISCOURAGE
POTENTIAL ASYLUM-SEEKERS AND TO ENCOURAGE THEM TO LEAVE THE
PREMISES VOLUNTARILY.)

B. PRIOR TO THE AMBASSADOR'S DECISION, IN THE EVENT A PERSON
INSISTS ON ASYLUM IN A USINT BUILDING, THE SWISS GOVERNMENT WOULD
EXPECT THAT WE WOULD CONSULT WITH WASHINGTON AND DECIDE WHETHER
WE WISH TO GRANT THE INDIVIDUAL ASYLUM IN THE US. IF THE ANSWER IS
YES, THE SWISS AMBASSADOR WOULD ASSIST USINT IN ATTEMPTING TO GET
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PERMISSION FOR THE INDIVIDUAL TO GO TO THE US.

C. IF THE US DECIDES AGAINST GRANTING ASYLUM IN SUCH A CASE, THE
SWISS AMBASSADOR AND GOVERNMENT WOULD STILL HAVE TO MAKE THEIR OWN
DECISION CONCERNING THE POSSIBLE GRANTING OF ASYLUM IN SWITZERLAND
BEFORE THE INDIVIDUAL WOULD BE REQUIRED TO LEAVE THE PREMISES.

2. THE INSTRUCTIONS OUTLINED ABOVE COMPLICATE BUT DO NOT APPEAR TO ALTER THE STEP-BY-STEP PROCEDURES WE HAVE ESTABLISHED INTERNALLY (REFTELS A AND C). THEY GO BEYOND THOSE PROCEDURES IN SCOPE, HOWEVER, AND REEMPHASIZE THE IMPORTANCE OF MAINTAINING CLOSE COORDINATION BETWEEN USINT AND THE SWISS EMBASSY IN HAVANA IN THE EVENT OF A SERIOUS ASYLUM REQUEST. THEY ALSO SUGGEST THAT THE SWISS WOULD HAVE THE FINAL SAY IN ANY SPECIFIC ASYLUM CASE. IF ANYTHING IN PARAGRAPH 1 ABOVE CONFLICTS WITH THE DEPARTMENT'S UNDERSTANDING OF THE LEGAL AND POLITICAL CONSIDERATIONS INVOLVED, IT IS RECOMMENDED THAT THE SUBJECT BE RAISED DIRECTLY WITH THE SWISS GOVERNMENT IN BERN. SUCH ADVANCE CONSULTATIONS MIGHT LEAD TO CLARIFICATIONS IN OUR PROCEDURES AND CONSIDERABLY EXPEDITE MATTERS SHOULD WE BE CONFRONTED WITH AN ACTUAL CASE LATER.

3. THE SWISS AMBASSADOR ALSO PROVIDED A COPY OF A LEGAL STUDY ON THE SUBJECT OF ASYLUM IN CUBA WHICH WAS PREPARED BY HIS FOREIGN MINISTRY IN 1962. WHILE THIS STUDY DEALT PRIMARILY WITH SWISS RIGHTS AND RESPONSIBILITIES AS THE PROTECTING POWER FOR LATIN AMERICAN COUNTRIES (NOTABLY ARGENTINA), IT TOUCHED ON THE US ALSO SINCE THE US CHANCERY BUILDING WAS INVOLVED IN THE CASE AT HAND. FOR EXAMPLE, IT QUOTED AN AIDE MEMOIRE FROM THE US EMBASSY IN BERN DATED FEBRUARY 12, 1962 AS FOLLOWS: "THE DEPARTMENT OF STATE RAISES NO OBJECTION TO THE USE OF THE CHANCERY BUILDING FOR THE ASYLUM OF POLITICAL REFUGEES PROVIDED THAT IT IS UNDERSTOOD THAT THE GRANTING OF ASYLUM IS BY AND FOR THE SWISS GOVERNMENT AND NOT ON BEHALF OF THE GOVERNMENT OF THE UNITED STATES". A COPY OF THIS CONFIDENTIAL

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STUDY IS BEING POUCHED TO ARA/CCA.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 10 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978HAVANA00062
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780015-0344
Format: TEL
From: HAVANA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780182/aaaacqvl.tel
Line Count: 96
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: abac6de5-c288-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 HAVANA 647, 77 STATE 285596, 77 HAVANA 829
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04 aug 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3802752
Secure: OPEN
Status: NATIVE
Subject: ASYLUM AND WALK-IN PROCEDURES
TAGS: ASEC
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/abac6de5-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014